FISCAL NOTE

Bill #: HB0282

Title: Residential property tax reduction for Montana income tax payers

Primary Sponsor: Jopek, M

Status: As Introduced

Sponsor signature	Date	David Ewer, Budget Director	Date

Fiscal Summary

	FY 2006 Difference	FY 2007 Difference
Expenditures:		
General Fund	$814,484	$1,566,444
State Special Revenue	$0	$0
Revenue:		
General Fund	$0	($1,689,324)
State Special Revenue	$0	($106,694)
Net Impact on General Fund Balance:	($814,484)	($3,255,768)

- ☒ Significant Local Gov. Impact
- ☐ Included in the Executive Budget
- ☐ Dedicated Revenue Form Attached
- ☒ Technical Concerns
- ☒ Significant Long-Term Impacts
- ☒ Needs to be included in HB 2

Fiscal Analysis

ASSUMPTIONS:

Department of Revenue

1. This bill reduces the tax rate for qualified residential property by 5 percent. To qualify for the reduction, two criteria must be met. First, the property must be the primary residential dwelling of the taxpayer. Secondly, the taxpayer must have paid Montana individual income tax in the year prior to claiming the reduction, or, if the taxpayer is over 65 years of age, the taxpayer must have paid their last income tax payment to Montana.

Revenue Impacts

2. It is assumed that the taxpayer must have income tax liability in order to qualify: taxpayers that filed an income tax return, but had no income tax liability are not eligible for the 5 percent reduction specified in SB 282.
3. Information from tax year 2003 individual income tax returns shows 189,452 taxpayers included a deduction for state property taxes. However, only 145,874 resident taxpayers that filed an itemized return that included a property tax deduction had positive income tax liability.

4. For purposes of this fiscal note it is assumed that the property tax deduction taken by the 145,874 taxpayers was for their primary residence and would qualify for the tax rate reduction under SB 282.
5. It is estimated that an additional 2,000 residential individual income tax filers did not itemize on their income tax return but had income tax liability and paid property taxes on a primary residence and therefore are eligible for the tax rate reduction.
6. Taxpayers 65 and older are eligible for the tax rate reduction. Information from tax year 2003 income tax returns show that an additional 17,974 individual income tax filers claimed the elderly homeowner credit in tax year 2003. For purposes of this fiscal note, 17,974 taxpayers 65 and older are expected to qualify for the tax rate reduction.
7. Combining the identified number of taxpayers who had both property and income tax liability, or were over the age of 65 results in a total of 165,848 (145,874 + 2,000 + 17,974) taxpayers eligible for this reduction.
8. There is no residence, or primary residence indicator in the Department of Revenue's (DOR) property database. However, a query of the DOR's property tax database for tax year 2003 resulted in an estimated distinct 316,486 residential properties (based on assessor/geographic code combination). These properties had an improvement value above $7,500, or were a mobile home, and did not receive benefit from the property tax assistance program.
9. For purposes of this fiscal note, per assumption 7, a random selection of 165,848 was drawn from the 316,486 distinct residential properties to represent the estimated number of taxpayers eligible for the tax rate reduction.
10. This bill requires the taxpayer submit an annual application to the DOR to receive the proposed primary dwelling tax rate reduction. Programs requiring the filing of an application rarely, if ever, result in 100 percent of the qualifying population actually applying for the tax reduction. It is assumed that individuals who would receive less than a $20 reduction due to the decrease in the tax rate would not file for the rebate. Using an estimated average mill levy rate of 528.17 for residential land and improvements, a 5 percent reduction to the tax rate would yield a tax benefit of less than $20 to residences with a full market value of approximately $32,500. In the sample set, 43,026 have a full market value of $32,000 or less.
11. Removing properties that would see a tax benefit of less than $20 reduces the number of distinct properties expected to have a tax rate reduction to 122,822 (165,848 – 43,026).
12. The combined taxable value of these 122,822 properties under current law is estimated at $316,169,044 for tax year 2003 (FY 2004).
13. This act applies to tax years beginning after December 31, 2005. The reduction would become available to qualified property taxpayers on taxes paid in tax year 2006, with revenue impacts beginning in FY 2007.
14. Assuming an annual natural growth for class 4 residential properties of 4.0 percent per year, the amount of taxable value affected by the proposal is estimated at $355,647,176 ($316,169,044 x (104.0% ^ 3 years)) in tax year 2006, or FY 2007.
15. A 5 percent reduction in the tax rate for the aforementioned property results in an estimated decrease in taxable value of $17,782,359 ($355,647,176 x 5%) in (tax year 2006) FY 2007.
16. The average mill levy for the state general fund is 95.53 mills (95 mills plus the 1.5 mills levied in five counties).
17. It is estimated that property tax revenue for the state general fund would *decrease* $1,689,324 ($17,782,359 x 95.53 mills) in FY 2007.
18. The mill levy for the university system is 6.00 mills.
19. It is estimated that property tax revenue for the university system would *decrease* $106,694 ($17,782,359 x 6 mills) in FY 2007.

Administrative costs

20. A mechanism for cross-matching the property tax and income tax databases would need to be developed and implemented to identify those eligible for the tax rate reduction.
21. Administrative costs associated with development of an application form, design of a cross-matching process, and on-going administration and enforcement of the provisions of this bill to ensure compliance with the law would be significant. To perform the required tasks associated with this bill, the Department of Revenue would require an additional 16 FTE in FY 2006, and 29 FTE in FY 2007. DOR estimates total costs for personal services, operating expenses and equipment of $814,484 in FY 2006 and $986,444 in FY 2007. No additional equipment would be required for those FTE starting in FY 2007.

Office of Public Instruction

22. Property tax values decrease by 0.95% ($17,782,359/total taxable value of $1.872 billion) in FY 2007. There will be a one-year guaranteed tax base (GTB) cost spike. The guarantee level is determined by the prior year taxable values applied against current year taxable values. The higher guarantee level in FY 2006 will apply to the lower taxable values in FY 2007 and cause increased state contribution as districts levy more mills to compensate for the drop in taxable values.
23. The one-time increased cost will be $0.40 million in FY 2007 for district levies as calculated by the school fund model. Countywide retirement GTB will increase $0.18 million based on a historical average of 27% of the costs paid for by the state and a FY 2004 county levies equal to $68.6 million (0.95% times $68.6 million local levies times 27%).
24. In FY 2008 and beyond the lower overall level of taxable values will not have a significant impact in statewide guaranteed tax base aid costs.

FISCAL IMPACT:

	FY 2006 Difference	FY 2007 Difference
FTE	16.00	29.00
Expenditures:		
Personal Services	$402,021	$726,510
Operating Expenses	325,263	259,934
Equipment	87,200	0
TOTAL	$814,484	$986,444
Funding of Expenditures:		
General Fund (01)	$814,484	$986,444
Revenues:		
General Fund (01)	$0	($1,689,324)
State Special Revenue –University (02)	$0	($106,694)
Office of Public Instruction		
Expenditures:		
Local Assistance	$0	$580,000
Funding of Expenditures:		
General Fund (01)	$0	$580,000

Net Impact to Fund Balance (Revenue minus Funding of Expenditures):

General Fund (01)	($814,484)	($3,255,768)
State Special Revenue (02)	$0	($106,694)

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

1. a. This bill would significantly impact local governments and school districts due to the loss in taxable value of $17,782,359 in (tax year 2006) FY 2007.
   b. The statewide average mill levy for residential property in tax year 2004 (FY 2005) is 533.03. Statewide mill levies have increased annually by 4.5 percent since FY 2001. Assuming growth of 4.5%, the statewide average mill levy for residential property would be 582.08 (533.03 x 104.5% ^2 years) in FY 2007.
   c. Removing the states 101.53 (95.53 + 6) mills, local governments and schools would have an estimated average statewide mill levy for residential property of 486.55 (582.08 – 101.53) in FY 2007.
   d. The associated revenue decrease to local governments and school districts under the proposal is estimated to be $8,652,007 ($17,782,359 x 486.55 mills) in FY 2007.
2. Under 15-10-420, MCA, county and city governments could float their mill levies to offset this property tax revenue loss. Since the amount of loss associated with this bill is significant, mill increases could be very large; this would shift the impacts onto other taxpayers.
3. This bill would increase local school district levies. State guaranteed tax base (GTB) aid will partially offset the local mill increase in FY 2007, but after the one year these additional mills will be fully born by the district levies.

LONG-RANGE IMPACTS:

1. This proposal would continue to result in general fund revenue reductions on the order of $1.7 million annually, and increased administrative costs of approximately $1 million per year.
2. State school GTB expenditures in FY 2008 and beyond will not be significantly different to current law. After FY 2007 and lower tax base is consistent between fiscal years there should not be additional state GTB expense.

TECHNICAL NOTES:

1. The meaning of "primary residential dwelling of the taxpayer" in section 1(2)(c) is unclear. The proposal does not specify if this is referring to the taxpayer's primary residence in Montana, or if this is the dwelling in which the taxpayer lives a majority of the time during the tax year. Under 15-6-134 (c), MCA, the definition of a primary dwelling is more specific in that it requires the person to occupy the dwelling at least 7 months a year, and limits the acreage to 5 acres.
2. The proposal does not require that the taxpayer must be the owner of record for the primary dwelling receiving the property tax reduction. This would make cross-matching property and income tax information difficult.
3. The bill, as written, does not prohibit taxpayers who are receiving benefits under the extended property tax assistance program (EPTAP) from qualifying for a reduction in the tax rate, as it does for taxpayers receiving benefits under the property tax assistance program (PTAP).
4. American Indians living on reservation fee lands pay property taxes, but may not be required to pay individual income taxes by state or federal law and therefore are ineligible for the reduction provided for in this bill.

5. In order to provide for the effective administration of this proposal, particularly with respect to ensuring compliance, the Department of Revenue must have the capability to cross-match individual income tax returns with property tax records. Currently, no such ability exists. Given the current state of database development, there is no way of determining if an owner of residential property did, or did not pay individual income taxes in the previous year. Enforcement of this proposal would be difficult.
6. An income tax filer, who because of sufficient tax credits had no income tax liability would be ineligible for the property tax rate reduction provided for in this bill, whereas, an individual who paid a nominal amount would be eligible. A classification of taxpayers based on somewhat similar distinction (payment/non-payment) was held unconstitutional in Mills v. State Board of Equalization, 97 Montana 13 (1934).
7. In administering the provisions of this bill, it would be necessary to provide county treasurers with information indicating whether or not a particular piece of residential property had, or had not paid individual income taxes. Under current statutes, this information is confidential. The bill may need to amend 15-30-303, MCA, to allow this information to be disclosed to county treasurers (or others that may need the information) in order to effectively administer the provisions of the bill.
8. It would be problematic to ensure that a taxpayer received the tax reduction for only a single piece of property due to variances in the name of record on property, the name on the individual income tax form, and the potential for a taxpayer to have multiple residences in-state.
9. The date of application for the property tax reduction is March 15th. Because of the allowed October 15th extension for income tax filers, the department would have to perform a second match between the Montana income tax and Montana property tax assessment databases after October 15th each year. This could impede the statutory requirements of 15-6-101(a), MCA.
10. To receive the reduction in property tax, this bill requires that the taxpayer must have paid individual income taxes under Title 15, Chapter 30, for the income tax year immediately preceding the property tax payment year for which the reduction is claimed. It is not clear what this means. Is this requirement satisfied if the taxpayer has a positive income tax liability in the prior year; or could a taxpayer simply file an income tax return under the provisions of Title 15, Chapter 30, regardless of whether the taxpayer has any tax liability or not? If the latter is true, then anyone could file an income tax return to receive the property tax benefit under the bill.
11. Section 1 (2)(d) refers to an “exemption” instead of a reduction in taxes.
12. The bill does not specify the method by which denials of the special tax rate would be appealed.
13. Under 15-10-420, MCA, county and city governments could float their mill levies to offset this property tax revenue loss. The actual reduction to residential property taxpayers could be offset as mill levies float under 15-10-420, MCA.